

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
Baltimore Division**

In Re:	*	
ROBERT P. BREEDEN, JR.	*	Case No: 09-28058-RAG
aka: ROBERT BREEDEN, JR.	*	
	*	Chapter 13
Debtor.	*	
* * * * *	*	* * * * *
ROBERT P. BREEDEN, JR	*	
aka: ROBERT BREEDEN, JR.	*	
	*	
Movant,	*	
vs.	*	
	*	
BAC HOME LOANS SERVICING, L.P.,	*	
fka Countrywide Home Loans	*	
Servicing, L.P.	*	
	*	
Respondent.	*	
* * * * *	*	

**SERVE ON:**

Richard J. Rogers, Esquire  
Cohn, Goldberg & Deutsch, LLC  
600 Baltimore Avenue, Suite 208  
Towson, MD 21204  
*Filed Proof of Claim*

The Corporation Trust Incorporated  
351 W. Camden Street  
Baltimore, MD 21201  
*Resident Agent per SDAT*

Brian Moynihan, President & CEO  
BAC Home Loans Servicing, L.P.  
6400 Legacy Drive  
Plano, TX 75024  
*Principal Office per SDAT*

\* \* \* \* \*

**DEBTOR'S MOTION TO DETERMINE STATUS AND AVOID LIEN  
PURSUANT TO 11 U.S.C. SECTION 506(a)**

NOW COMES, the Debtor (the "Movant"), by and through Jeffrey M. Sirody, Esquire, his attorney, and in filing this *Debtor's Motion To Determine Status And Avoid Lien Pursuant To 11 U.S.C. Section 506(a)*, states as follows:

1. This is a core proceeding over which the Court has subject matter jurisdiction pursuant to 11 U.S.C. Sections 502 and 506, 28 U.S.C. Section 157(b)(2)(B) and (K), and Federal Bankruptcy Rules 3012 and 9014.
2. The Movant filed this case on September 24, 2009, under Chapter 13.
3. The Movant is a resident of Harford County, State of Maryland and is the fee simple owner of an interest in certain real property known as: 55 Oak Crest Court, Bel Air, Maryland 21015 (the "Property").
4. Carrollton Bank holds a perfected senior mortgage lien ("First Lien") duly recorded in the Land Records Office of Harford County against the Property and is entitled to a secured claim in the amount of approximately \$205,529.64, per amended proof of claim number 2-2 filed in this case.
5. Subsequent to when the First Lien was recorded, a Junior Mortgage Lien ("Second Lien") was recorded in favor of Carrollton Bank. The amount currently owed on the Second Lien is \$60,991.67, per amended proof of claim number 1-2 filed in this case.
6. Subsequent to when the Second Lien was recorded, another Junior Mortgage Lien ("Third Lien") was recorded in favor of Respondent. The amount currently owed on the Third Lien is approximately \$205,529.64, per proof of claim number 5 filed in this case.
7. The Property has a value of \$192,506.00, which is supported by market valuation obtained online at [www.cyberhomes.com](http://www.cyberhomes.com). See attached.
8. Pursuant to Sections 506(a) and 1322 of Title 11, the Bankruptcy Code, the Third Lien of Respondent is wholly unsecured; there exists no equity in the Property above what is needed to satisfy the First and Second Liens.
9. According to Johnson v. Asset Management Group, LLC, 226 B.R. 364 (D. Md. 1998), while a mortgage lien against the Movant's property may be avoided upon the entry of the discharge, an order avoiding that lien is necessary for filing among the Land Records of that property's city/county to clear title to the property; in this instance, Harford County, Maryland.
10. Movant hereby files this Motion to determine the extent of the value of the Respondent's security interest in the Property, and to strip/avoid the junior

lien (Third Lien) of Respondent.

10. Such status determination and lien avoidance is necessary for the Movant's successful reorganization and for the benefit of the unsecured creditors.

WHEREFORE, upon the premises considered, the Movant respectfully requests this Court find in favor of the Movant and enter an order that:

- a. Declares that the Third Lien (proof of claim #5), of Respondent is wholly unsecured; and
- b. The junior mortgage lien (Third Lien) of Respondent is entirely avoided; and
- c. The Respondent shall remove its Third Lien from the land records of the appropriate county upon completion of this case; and
- d. Grant such other and further relief as may be fair and just.

Respectfully submitted,

May 13, 2010

\_\_\_\_\_/s/\_\_\_\_\_  
Jeffrey M. Sirody, Bar No.11715  
Sirody Frieman & Feldman, PC  
1777 Reisterstown Road, Suite 360  
Baltimore, MD 21208  
(410) 415-0445

Counsel for the Debtor/Movant

**CERTIFICATION OF NOTIFICATION AND MAILING**

I hereby certify and affirm under the penalties of perjury that on this 13th day of May 2010, a copy of the foregoing *Motion to Determine Secured Status Pursuant to 11 U.S.C. Section 506, proposed Order and Notice of Hearing* and were sent by first class mail to:

Richard J. Rogers, Esquire  
Cohn, Goldberg & Deutsch, LLC  
600 Baltimore Avenue, Suite 208  
Towson, MD 21204

The Corporation Trust Incorporated  
351 W. Camden Street  
Baltimore, MD 21201

**via Certified Mail:**

Brian Moynihan, President & CEO  
BAC Home Loans Servicing, L.P.  
6400 Legacy Drive  
Plano, TX 75024

and electronically served upon:

Office of U.S. Trustee  
Chapter 13 Trustee

/s/

\_\_\_\_\_  
Jeffrey M. Sirody, Esquire